ILLINOIS POLLUTION CONTROL BOARD May 6, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
• · · ·)	DCD 04 161
V.)	PCB 04-161 (Enforcement - Air)
CONOCOPHILLIPS COMPANY, a Delaware)	
corporation,)	
_)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On March 17, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against ConocoPhillips Company. *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns ConocoPhillips Company's petroleum refining facility at the Wood River Refinery, at 900 South Central Avenue, Roxana, Madison County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2002)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that ConocoPhillips Company violated Section 9(a) and (b) of the Act (415 ILCS 5/9(a) and (b) (2002)), 35 Ill. Adm. Code 201.141, and standard condition 7 of operating permit 72110616. The People further allege that ConocoPhillips Company violated these provisions by emission of hydrocarbon vapor so as to cause or tend to cause air pollution.

On March 17, 2004, the People and ConocoPhillips Company filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Alton Telegraph* on April 7, 2004. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2002); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include

stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of ConocoPhillips Company's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2002)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and ConocoPhillips Company have satisfied Section 103.302. ConocoPhillips Company neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), as amended by P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. ConocoPhillips Company agrees to pay a civil penalty of \$35,386. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. ConocoPhillips Company must pay a civil penalty of \$35,386 no later than June 5, 2004, which is the 30th day after the date of this order. ConocoPhillips Company must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and ConocoPhillips Company's federal employer identification number must be included on the certified check or money order.
- 3. ConocoPhillips Company must send the certified check or money order to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
- 5. ConocoPhillips Company must cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); see also 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The

Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 6, 2004, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board